

From: John J. Urbaniak
To: Microsoft ATR, jjurban@attglobal.net@inetgw
Date: 1/11/02 8:18am
Subject: Microsoft Settlement

To: U.S. Department of Justice

(I wish to have your Department submit this letter to Judge Colleen Kollar-Kotelly regarding the proposed Microsoft Antitrust Trial settlement. I have sent a similar letter to the State's Attorneys General who are in opposition to the settlement. Thank you.)

I am the President and founder of Aviar, Inc., a software development company specializing in Computerized Maintenance Management Systems (CMMS). I have been in the computer field since 1966.

Aviar was founded in September, 1983. We developed and marketed a DOS CMMS program called "Ounce of Prevention System." This system was very successful: We had more than 550 users worldwide, and in 1990 we were judged "Best Overall" in a user-satisfaction survey sponsored by A. T. Kearney Associates. The survey results were published in "Industry Week" Magazine, February 5, 1990.

Personally, I have written several articles on CMMS techniques and requirements which were published in major magazines such as "Maintenance Technology." I have also been invited to speak at Maintenance-oriented trade shows and meetings.

As of 1994, our company had 13 employees and annual revenues approaching \$500,000. Our growth rate was approximately 22% per year.

At that time, the PC industry was changing from the DOS character-based mode of operating to the Graphical User Interface mode, based on the mouse and graphical screens. Aviar decided to develop a new version of our successful DOS program.

We did extensive research to evaluate software platforms. We studied Microsoft Windows and IBM's OS/2 Operating Systems. It was my professional judgement at that time that OS/2 was a far superior operating platform than Windows for the specific requirements of a CMMS product. OS/2 was more stable; less prone to system crashes and loss of data; more resistant to viruses; more efficient and made better use of system resources.

It is my judgement, as of the present time, that OS/2 is still a superior operating environment for the needs of Maintenance Management software. OS/2 is still more stable, less prone to crashes and loss of data, more resistant to viruses and more efficient than any version of

Windows.

So, based on this judgement, my company developed a new version of our CMMS product, called "Oz of Prevention System" for the OS/2 platform.

Little did I know that while we were working hard to produce an excellent advanced version of our well-received DOS system, Microsoft was acting illegally to prevent our product from ever reaching our potential customers.

We didn't realize that Microsoft was threatening companies such as Hewlett-Packard to prevent them from offering PC's with OS/2 pre-loaded. We didn't realize that Microsoft threatened even IBM to prevent them from offering and supporting computers loaded with their own OS/2! But these activities came out in the trial.

As of this writing, Aviar has shrunk to two full-time employees and one part-timer. Our revenues have dropped by 80%. I personally have not received any meaningful salary in several years.

It was NOT a simple mis-judgement on my part which caused this. It was Microsoft's illegal maintenance of its monopoly, combined with IBM's [forced?] retreat from the PC Operating System market.

In order for us to sell our OS/2-based system, we must also supply computers along with the software. This is because it is impossible to obtain PCs with OS/2 pre-loaded on the open market. We have to assemble machines and package them along with our software. This adds significantly to our costs, and puts us at a competitive disadvantage, even though we believe our product is superior. If we buy a machine, say from IBM, we still have to pay them for Windows, which we don't want and which we immediately remove. This is not right, not in the America which I thought I lived in.

I believe the following:

1. My company has a right to exist, to succeed or fail on our own, without being prevented access to our market by Microsoft.
2. We have the right to innovate on our own, without being forced to develop software on Microsoft's terms and conditions.
3. We have the right to grow our own markets without being prevented and hindered by the Microsoft monopoly.
4. We have the responsibility to offer our customers the very best product we can.

In my judgement, the very best product for a CMMS application will not

be based on Windows, it will be based on a superior Operating System such the OS/2 platform for the reasons stated above. It is simply wrong either to

1. Force us out of business, or
2. Force us to develop for Windows, which we believe is inferior.

I believe, therefore, that the DoJ proposed settlement with Microsoft does absolutely NOTHING to prevent Microsoft from using its monopoly to continue to restrict our customers from acquiring OS/2 computers, and thus to restrict us from competing in a free and open market. In fact, the proposed settlement actually strengthens Microsoft's stranglehold on the PC Operating System market, in spite of their illegally judged behavior.

My company will continue to suffer and my customers will continue to be denied access to what I believe is a superior product on a superior operating environment.

All we want is a chance to innovate and compete fairly. The proposed settlement does not facilitate this. I ask that the settlement be rejected and stronger remedies be enacted which allow my small company to compete honestly without being forced out of existence by the illegal actions of Microsoft.

I assume that there is enormous lobbying pressure and media hype generated by powerful pro-Microsoft entities. I am just a small businessperson trying to be moderately successful offering a superior product to my customers. I haven't done anything illegal as Microsoft has done. I pray that American Justice applies to my small business just as well as it applies to giant corporations.

Sincerely,

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